

U.S. Fish and Wildlife Service (FWS) (Continued)

To receive an incidental take permit, the Permittees are required to provide:

- a complete description of the activity sought to be authorized;
- a list of the species sought to be covered by the permit, as well as the number, age, and sex of such species, if known; and
- a habitat conservation plan describing how activities will be avoided, minimized and/or mitigated.

The HCP must specify:

- the impact that will likely result from such taking;
- what steps the applicant will take to monitor, minimize, and mitigate such impacts;
- the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances;
- what alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be used; and
- other measures that the FWS may require as being necessary or appropriate.

How much will the amendment process cost, and who pays?

Funding for the development of the amended MSHCP and permit will come from the proceeds of the mitigation fees collected since 1999. In addition, funding from the Southern Nevada Public Lands Management Act has been made available for the permit amendment process. No city or county general fund revenues will be used to fund permit amendment. It is estimated that the total costs of the amendment process will be approximately \$2.5 million.

Process Timeline

The amendment process is anticipated to be an iterative process incorporating technical information by the Permittees, specialized consultants with experience in the areas of environmental compliance and habitat conservation planning, input from regulatory agencies, as well as stakeholder and public input and review.

How long is it anticipated to take?

Overall, the Permit amendment process is projected to take approximately 18-24 months. Within this timeframe, the CAC is projected to be meet for roughly 12-14 months.

Major milestones

February 2009	First CAC meeting
July 2009	NEPA scoping
May 2010	Final CAC recommendations report
June 2010	Draft MSHCP/Environmental Impact Statement (EIS)
January 2011	Final MSHCP and Incidental Take Permit

Approval process

Approval of the amended MSHCP will require that the FWS determine that the impacts of the proposed take will be minimized and mitigated to the maximum extent practicable by the conservation measures outlined in the MSHCP; that the proposed take will not appreciably reduce the likelihood of the survival and recovery of covered species in the wild and that the MSHCP will be adequately funded. This will be done through the preparation of both an EIS and a Biological Opinion.

An EIS is required by the National Environmental Policy Act before the FWS can issue an incidental take permit to the Permittees. This multi-stage process involves extensive analysis and public participation before the federal government (FWS) can make a decision on whether to issue an amended incidental take permit.



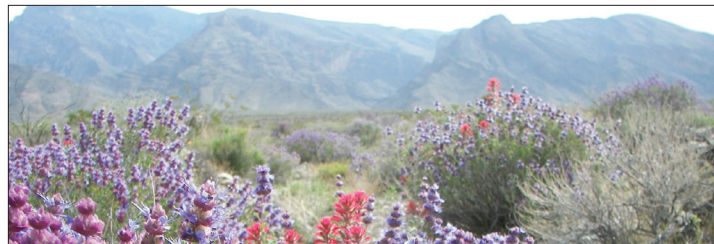
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desert conservation
PROGRAM
respect, protect and enjoy our desert!



Amending the Clark County Multiple Species Habitat Conservation Plan



Our History

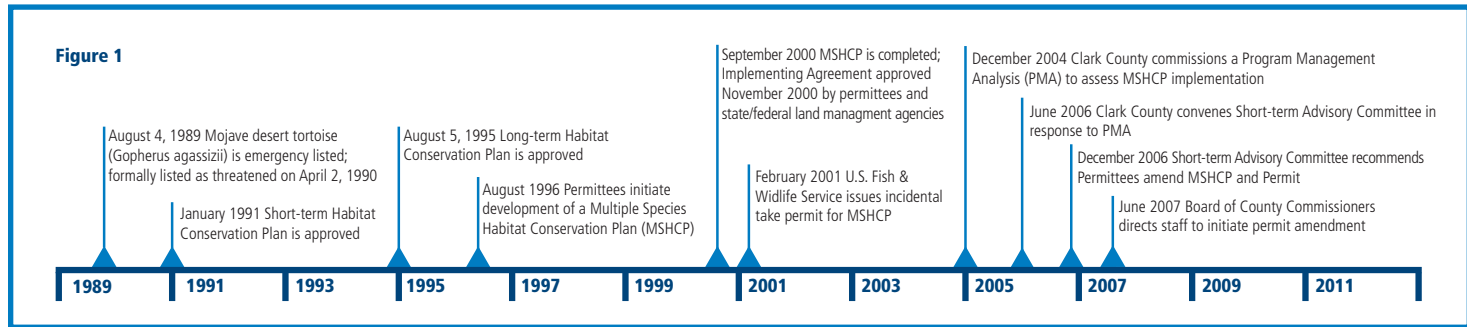
For nearly 20 years, the Desert Conservation Program has provided a framework to balance the protection of natural resources in Clark County with the impacts of development. This includes improving and streamlining the environmental permitting process for projects that have the potential to impact threatened and endangered species. Clark County is responsible for coordinating the compliance of multiple jurisdictions with an incidental take permit issued pursuant to the federal Endangered Species Act (ESA). Compliance with the permit requires the implementation of the Clark County Multiple Species Habitat Conservation Plan (MSHCP).

The MSHCP is a mandatory planning document developed by the applicants of an incidental take permit that outlines minimization and mitigation measures to be implemented to offset the impacts of development on sensitive plant and animal species. Examples of minimization and mitigation measures include the installation of barriers to prevent tortoise mortality along major roadways, restoration of degraded habitat, public information and education.

There are 78 species covered by the MSHCP, including the federally listed desert tortoise and Southwestern willow flycatcher, and the Nevada state listed Las Vegas bearpoppy. Clark County serves as co-permittee and implementing agent on behalf of the cities of Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas; and the Nevada Department of Transportation (Permittees). The current permit was issued in February 2001 and is valid for 30-years.

Clark County has been engaged in ecosystem-based habitat conservation planning and implementation for nearly two decades. Since the emergency listing of the desert tortoise in 1989, Clark County and the Permittees have worked diligently to develop and implement a balanced approach to development and conservation. Figure 1 displays a timeline of the major conservation planning milestones in Clark County since 1989.

The MSHCP avoids project-by-project permitting that is costly and time consuming for applicants and often results in uncoordinated and biologically ineffective mitigation. Instead, private property owners pay a \$550 per acre mitigation fee and subsequently are allowed to “take” habitat in Clark County without individual project consultations with the United States Fish & Wildlife Service (FWS). The mitigation fees are collected by the individual Permittees and transferred to Clark County which uses these funds to implement the MSHCP. The MSHCP and Permit allow for the disturbance (development) of up to 145,000 acres of non-federal land in Clark County and provide coverage for the incidental take of covered species listed in the Permit. As of December 31, 2008, the Permittees have disturbed approximately 77,367 acres under the permit.



Major program accomplishments

Since 1999, the DCP has approved 285 conservation projects totaling more than \$77 million. As a result of additional funding made available through the Southern Nevada Public Lands Management Act, the Permittees have been able to expend more on conservation projects in the first eight years of implementation than the minimum required for the 30-year life of the Plan. As a result, the Permittees and the FWS have built a strong foundation for species conservation. Specific accomplishments include:

- Initiated or completed all 22 permit conditions
- Implemented 459 of the 604 conservation actions in the MSHCP
- Constructed 308 miles (1.6 million linear feet) of fencing along major roadways to protect the desert tortoise

- Transferred more than 10,000 desert tortoises to the Desert Tortoise Conservation Center
- Retired more than 1.9 million acres of grazing allotments and associated water rights on federal land in Clark County
- Educated more than 10,000 CCSD students each year through Mojave Max assemblies and received more than 40,000 entries to the Mojave Max Emergence Contest since 2000
- Funded numerous restoration/rehabilitation projects including:
 - \$6 million for law enforcement and resource protection
 - \$5.5 million on habitat restoration projects
 - \$2.9 million to survey, close and/or restore illegal off-highway vehicle roads

What needs to be modified?

The purpose of the amendment process will be to evaluate alternatives and develop recommendations for revising the MSHCP, incidental take permit and implementing agreement to more effectively balance the needs of sustainable growth and conservation in Clark County. More specifically, there are four primary goals for permit amendment:

- Obtain coverage for acres not currently permitted for take. There are 215,000 acres of land available for development in Clark County that are not covered by the existing Permit.
- Re-evaluate covered species list to focus on those species most at risk. Those species most at risk are short-changed as a result of the large number of species currently covered in the MSHCP.
- Revise the conservation strategy to improve mitigation effectiveness. The existing conservation and mitigation strategy is administratively unwieldy, lines of authority are blurred and accountability is difficult to demonstrate.
- Restructure the MSHCP to improve efficiency and reduce bureaucracy. The size and complexity of the current MSHCP makes efficient implementation of minimization and mitigation actions difficult.

Who is involved?

Encouraging participation early on will reduce the potential for miscommunication and increase the likelihood that stakeholder concerns are effectively addressed. The goal is to cultivate an open, collaborative environment that affords stakeholders an opportunity to provide input and influence outcomes. Given the scope and complexity of the permit amendment process and its potential to affect numerous agencies and stakeholder groups, developing a diverse base of participants is critical. However, because bringing all conceivable decision-makers and stakeholders together as one group would be administratively unwieldy and not accurately reflect the scope of each participant’s role in the process, the Permittees have developed a unique process whereby input from all affected stakeholders and decision-makers can be considered and incorporated into the amendment process.

Permittees

The Permittee governing boards will provide ultimate policy direction for the permit amendment process. Staff from each of the Permittees are responsible for coordinating input and strategic direction from the governing boards into the permit amendment process.



What are the benefits of permit amendment?

Among the primary obligations of Clark County and the Permittees in amending the MSHCP and permit will be to ensure that development continues in a way that is balanced with the needs of sensitive plant and animal species and their habitat. By proactively addressing the needs of conservation and development in our community, an amended permit will provide for the long-term economic security of Clark County residents while protecting sensitive plant and animal species. By refocusing efforts on those species most at risk in our region, we can ensure that we are maximizing the mitigation potential of available funds. Similarly, revising the conservation strategy to achieve greater clarity, transparency and accountability will also help ensure that mitigation dollars are being used most effectively. Finally, by reducing the overall administrative complexity of the MSHCP, we can ensure that the maximum funding is going to species conservation and not to bureaucracy.

Community Advisory Committee

To support its policy development, the Clark County Board of County Commissioners (BCC) will receive input from an appointed Community Advisory Committee (CAC), which will be comprised of representatives from a broad cross-section of community stakeholders. The BCC will in turn transmit these recommendations to the other Permittee governing boards for their consideration through a combination of staff briefings and/or formal council presentations. The CAC will discuss topics and options, consider technical data and provide recommendations to the BCC and the Permittee governing boards. Potential topics to be discussed by the CAC include covered species, mitigation scenarios, funding recommendations and implementation strategies. The CAC will be administered by Clark County, which in turn will coordinate any technical and administrative support to the CAC with technical staff from the Permittees. The CAC will use a consensus approach to develop its recommendations, and neutral facilitation services will be used to ensure the committee meetings remain focused and productive.

U.S. Fish and Wildlife Service (FWS)

The FWS is responsible for the administration of the ESA. The ESA requires FWS to maintain lists of threatened and endangered species and affords substantial protection to listed species. Section 9 of the ESA prohibits the take of any fish or wildlife species listed under the ESA as endangered and most species listed as threatened. Take, as defined by the ESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined as any act that kills or injures the species, including significant habitat modification. Section 10(a)(1)(B) of the ESA authorizes the FWS to issue permits for the incidental take of federally listed fish and wildlife species that is incidental to, but not the purpose of, otherwise lawful activities. *(Continued on back.)*